

Message Text

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ACTION L-03

INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01 COA-02

EB-11 OIC-04 ADP-00 CIAE-00 DODE-00 PM-07 H-03 INR-10

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AEC-11 AGR-20 CG-00 COME-00 DOTE-00 FMC-04 INT-08

JUSE-00 NSF-04 OMB-01 TRSE-00 SCI-06 CEQ-02 EPA-04

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INFO USMISSION USUN NEW YORK

AMEMBASSY SUVA

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AMEMBASSY KUALA LUMPUR

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AMEMBASSY PORT AU SPAIN

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AMEMBASSY BOGOTA

UNCLAS SECTION 1 OF 2 GENEVA 3965

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SUBJ: LOS: SEABED MEETING SC II JULY 24

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1. SUMMARY. IN TWO MEETINGS OF SUBCOMMITTEE II, SEVERAL REPS INTRODUCED DRAFT PROPOSALS OR EXPLAINED CO-SPONSORSHIP OF ARTICLES. MALAYSIA AND USSR SPOKE ON STRAITS ISSUE. OTHERS RESPONDED TO POINTS RAISED IN STATEMENTS

ON DRAFT PROPOSALS. IN GENERAL REPS WERE AWAITING COMPARATIVE TALE WHICH IS COMPLETED AND DISTRIBUTION IS EXPECTED AT ANY TIME.

2. FIJIAN REP EXPLAINED POSITION ON DRAFT ARTICLES RELATING TO PASSAGE THROUGH TERRITORIAL SEA (A/AC.138/SC.II/L.42). HE NOTED SC WAS MAKING TRANSITION FROM CONCEPTUAL PHASE TO DEFINITIVE PHASE AND DRAFT ARTICLES WERE ATTEMPT TO DEFINE TERMS IN PRACTICAL CONTEXT. HE STATED COUNTRCES GAVE VARIOUS INTERPRETATIONS OF TERM "INNOCENT" IN DOCTRINE OF INNOCENT PASSAGE. HE POINTED OUT ALL STATES HAD INTEREST IN UNIMPEDED COMMUNICATIONS WHICH MUST BE BALANCED WITH RIGHT OF COASTAL STATE TO CONTROL PASSAGE THROUGH ITS WATERS FOR SECURITY, MARINE POLLUTION, SANITARY, AND FISCAL PURPOSES. DRAFT ARTICLES ATTEMPT LIST SPECIFICALLY ACTIVITIES WHICH WOULD BE CONSIDERED PREJUDICIAL TO PEACE, GOOD ORDER OR SECURITY OF COASTAL STATE. SUBMARINES MAY BE REQUIRED TO NAVIGATE ON SURFACE UNLESS PRIOR NOTICE OF PASSAGE GIVEN AND PASSAGE CONFINED TO DESIGNATED SEALANES. TANKERS, SHIPS CARRYING NUCLEAR OR OTHER INHERENTLY DANGEROUS SUBSTANCES, MARINE RESEARCH AND HYDROGRAPHIC SURVEY SHIPS MIGHT ALSO BE REQUIRED TO GIVE NOTICE AND TO CONFIN PASSAGE TO DESIGNATED SEALANES. MANY TRADITIONAL RULES REGARDING PASSAGE IN TERRITORIAL SEA AND CONTIGOUS ZONE CONVENTION WOULD BE RETAINED. HOWEVER, WARSHIPS IN INNOCENT PASSAGE COULD NOT CARRY OUT MANEUVERS OR UNDERTAKE HYDROGRAPHICAL SURVEY WORK WARSHIPS NOT COMPLYING WITH COASTAL STATE LAWS COULD HAVE RIGHT OF PASSAGE SUSPENDED AND, IN CASE OF REPEATED OFFENDERS, COULD HAVE PASSAGE SUSPENDED FOR PERIOD DETERMINED BY CAOSTAL STATE. ARTICLES ALSO INCLUDED PROVISION FOR FLAG STATE LIABILITY FOR DAMAGE CAUSED TO COASTAL STATE FROM VIOLATIONS OF LAW.

3. AUSTRIAN REP DELIVERED LONG STATEMENT EXPLAINING DRAFT ARTICLES ON RESOURCE JURISDICTION OF COASTAL STATES UNCLASSIFIED

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BEYOND TERRITORIAL SEA (A/AC.138/SC.II/L.39). NOTED THREE PREMISES BEHIND AUSTRIAN POSITION: (A) DESIRE REDUCE ECONOMIC GAP BETWEEN RICH AND POOR; (B) MAKE COMMON HERITAGE ACCOMMODATE ALL STATES LEGITIMATE INTERESTS; AND (C) PROVIDE SYSTEM FOR RATIONAL DEVELOPMENT AND MAZIMUM UTILATION OCEAN RESOURCES FOR BENEFIT ALL MANKINGD. HE ARGUED THAT FINANCIAL MEANS FOR CREATION INTERNATIONAL MACHINERY COULD COME FROM REVENUE SHARING IN CONTINENTAL SHELF AREAS. REP REFERRED TO NUMBER PROVISIONS AND PROPOSALS BEFOR SC, PARTICULARLY THOSE WHICH PROVIDED SOME BENEFITS FOR LANDLOCKED OR DIS-ADVANTAGED STATES. HE OBJECTED, HOWEVER, TO DISTINGUISHING BETWEEN DEVELOPED AND DEVELOPING LANDLOCKED

STATES. HE STRONGLY URGED LIMITS WHICH WOULD ENSURE MEANINGFUL ECONOMIC AREA FOR MANAGEMENT BY INTERNATIONAL REGIME. SUGGESTED SLIDING SCALE OF SEABED REVENUE SHARING BASED ON DISTANCE FROM SHORE, WATER DEPTH, STANDARD OF LIVING, AND TAX EXEMPTIONS. BELIEVED TOO LITTLE ATTENTION GIVEN TO ADJACENCY CRITERION IN CONTINENTAL SHELF CONVENTION BY PROPONENTS OF 200-MILE LIMIT. HE ALSO OPPOSED CONCEPT OF ACQUIRED RIGHTS AND FELT EXPLOITABILITY CRITERION IN SHELF CONVENTION WAS UNJUST BECAUSE RESULT WAS TO MAKE RICH COUNTRIES RICHER. REP STRESSED NEED FOR COMPULSORY DISPUTE SETTLEMENT PROCEDURES FOR INJURED PARTIES.

4. LIBERIAN REP SPOKE IN FAVOR DRAFT ARTICLES ON EXCLUSIVE ECONOMIC ZONE (A/AC.138/SC.II/L.40) WHICH WAS BASED ON OAU DECLARATION AND WAS CO-SPONSORED BY 15 AFRICAN STATES. HE NOTED ACQUIRED RIGHTS APPROACH WOULD MAKE PROGRESS DIFFICULT TNA SAID WIMILAR CLAIMS COULD BE MADE FOR TRADITIONAL FISHERIES, FREEDOM OF POLLUTION, EXPLOSION OF BOMBS IN OCEAN AND OTHER RIGHTS ARGUABLY MERITING COMPENSATION. LIBERIA BELIEVED DIRECT INVESTMENTS SHOULD BE COMPENSATED. REP OPPOSED REVENUE SHARING FOR IT INTRODUCED COMPLEXITIES INTO ZONE AND FORCED RELIANCE ON COMPULSORY SETTLEMENT OF DISPUTES. SEABED COMMITTEE WAS INAPPROPRIATE FORUM FOR SETTLEMENT OF FOREIGN INVESTMENT ISSUES. RE ADDIS ABABA DECLARATION, 41 AFRICAN HEADS OF STATE HAD APPROVED RECOMMENDATIONS FROM FOREIGN UNCLASSIFIED

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MINISTERS WITH ONLY CHANGE BEING DELETION OF 12-MILE FIGURE FOR TERRITORIAL SEA. SOME COUNTRIES HAD FELT IT WOULD BE BETTER TO AWAIT ACCEPTANCE OF EXCLUSIVE ECONOMIC ZOEN BEFORE RECOGNIZING 12- MILE TERRITORIAL SEA. REP NOTED LANDLOCKED STATES RIGHT OF ACCESS TO AND FROM SEA WAS AFFIRMED IN DRAFT ARTICLES AND LANDLCOKED AND OTHER GEOGRAPHICALLY DISADVANTAGED STATES WERE ENTITLED TO SHARE IN LIVING RESOURCES ON EQUAL BASIS WITH COASTAL STATE. HE NOTED DECLARATION HAD ENDORSED INNOCENT PASSAGE BUT CALLED FOR GREATER PRECISION IN ITS DEFINITION. IN ANY CASE, OAU DECLARATION WAS NEGOTIATING POSITION.

5. MALAYASIAN REP SPOKE ON STRAITS WHICH INVOLVED NAVIGATION THROUGH TERRITORIAL WATERS WHICH WERE INTE-GRAL PART OF COASTAL STATE. MALAYSIA WAS FULLY CONSCIOUS OF NEEDS OF INTERNATIONAL COMMUNITY AS WELL AS OF COASTAL STATE. INNOCENT PASSAGE WAS RULE OF LAW AND COASTAL STATE WOULD DENY ITS EXERCISE AT ITS PERIL. SPAIN AND INDIA HAD EXPRESSED MALAYSIAN POSITION ON ITALIAN STRAITS ARTICLE. ITALIANS WERE ACCOMMODATING PARTICULAR SITUATION WHICH COULD NOT SERVE AS BASIS FOR INTERNATIONAL SETTLEMENT. FREE TRANSIT WAS HYPOCRICY

AND COASTAL STATES COULD NOT ACCEPT LOSS OF SOVEREIGNTY.
OVERFLIGHT WAS NOT WITHIN PURVIEW OF SC CONSIDERATIONS.
CHINESE ARTICLE ON STRAITS REAFFIRMED VIEW OF MALAYSIA
AND OAU DECLARATION SUPPORTED INNOCENT PASSAGE.

6. AUSTRALIAN REP, IN RESPONSE TO POINT MADE BY AUSTRIA,
STATED AUSTRALIA HAD NOT SAID IN WORKING GROUP IT FAVORED
REVENUE SHARING AS SUCH. NEVERTHELESS, IT WAS WILLING
CONSIDER ANY REASONABLE PROPOSAL IN CONTEXT OF NEGOTIA-
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AMEMBASSY OTTAWA

AMEMBASSY LONDON

AMEMBASSY QUITO

AMEMBASSY PORT AU SPAIN

AMEMBASSY ANKARA

AMEMBASSY BOGOTA

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7. USSR OPENED AFTERNOON SESSION WITH LONG SPEECH ON

STRAITS. REP EMPHASIZED IMPORTANCE OF NAVIGATION THROUGH STRAITS LINKIN HIGH SEAS AREAS WHICH WERE USED FOR INTERNATIONAL SHIPPING. HE ALLUDED TO CUSTOMARY UNCLASSIFIED

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STANDARDS FOR FREEDOM OF PASSAGE THROUGH STRAITS WHICH HAD EVOLVED WITHOUT DISCRIMINATION BETWEEN FLAGS. HE REFERRED TO SEVERAL TREATIES, ONE INVOLVING GIBRALTAR, WHICH CONTAINED LANGUAGE INSURING FREEDOM OF PASSAGE. HE ARGUES FREEDOM OF PASSAGE THROUGH STRAITS USED FOR INTERNATIONAL TRANSPORTATION WAS INTEGRAL PART HIGH SEAS COSCRINE. REP CRITICIZED DRAFT SUBMITTED BY GROUP 8 STATES IN MARCH (A/AC.138/SC.II/L.18/REV1) ON BASIS IT CONFUSED REGIME OF TERRITORIAL SEA WITH REGIME FOR INTERNATIONAL STRAITS. STRAITS USED FOR INTERNATIONAL NAVIGATION RAISED INDEPENDENT ISSUES WHICH HAD OWN CHARACTERISTICS. USSR FAVORED PRESERVATION OF EXISTING FREEDOM OF PASSAGE IN SUCH STRAITS WHETHER OR NOT COVERED BY TERRITORIAL SEA. HOWEVER, FREEDOM OF PASSAGE REGIME SHOULD TAKE INTO ACCOUNT SECURITY AND POLLUTION CONCERNS OF COASTAL STATES. CONCEPT OF INNOCENT PASSAGE GAVE COASTAL STATES LAST WORD ON DECIDING WHO COULD PASS AND DOCTRINE COULD BE INTERPRETED ARBITRARILY. INNOCENT PASSAGE COULD NOT APPLY TO GIBRALTAR, ENGLISH CHANNEL DOVER, MALACCA, SINGAPORE, OR BAB EL MANDEB IN WHICH FREEDOM OF PASSAGE HAD ALWAYS EXISTED. SOVIETS OBJECTED TO COASTAL STATE GRAB OF STRAITS WHICH WERE HERITAGE OF ALL NATIONS. SOVIETS WERE DEFENDING LEGAL RIGHT OF FREE PASSAGE BECAUSE CLOSURE OF SUCH STRAITS WOULD PLACE STRAIT-LOCKED STATES IN DISADVANTAGEOUS POSITION AND BECAUSE THESE WERE GATES THROUGH WHICH MAJORITY INTERNATIONAL COMMUNITY CARRIED OUT COMMERCE AND RELATIONS. REP STATED THEY WERE PREPARED TO DELETE REFERENCE TO HIGH SEAS IN STRAITS FROM THEIR DRAFT ARTICLE (A/AC.138/ SC.II/L.7) AND WERE WILLING TO INCLUDE PROVISION RE TRAFFIC SEPARATION SCHEMES. THEY WERE ALSO WILLING TO HAVE RIGHT OF INNOCENT PASSAGE APPLY TO STRAITS CONNECTING TERRITORIAL SEAS OF COASTAL STATE AND HIGH SEAS. THEY WERE WILL TO STUDY CLOSELY ARTICLES ON OVERFLIGHT AND LOOK FOR MEANS TO CONCILIATE OPPOSING VIEWS ON THIS ISSUE.

8. SRI LANKA FAVORED INNOCENT PASSAGE DOCTRINE BUT WAS WILLING TO CONSIDER OTHER PHRASE SUCH AS LAWFUL UNCLASSIFIED

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PASSAGE OR PEACEFUL PASSAGE. REP STATED SUPPORT FOR FIJIAN PROPOSAL.

9. TRINIDAD AND TOBAGO REP SPOKE BRIEFLY ON QUESTION OF DELIMITATION CONCERNING ISLANDS. ARTIFICIAL INSTALLATIONS, ROCKS, ISLETS, AND THE LIKE WERE NOT INCLUDED. HOWEVER, ISLANDS AND CONTINENTAL LAND MASSES MUST BE TREATED SIMILARLY. REP CATEGORICALLY REJECTED CREATION OF ANY SPECIAL REGIME FOR ISLANDS.

10. SINGAPORE REP SUGGESTED SC CONSIDER NEXT STAGE OF WORK TO INSURE NO LOSS OF TIME. HE SUGGESTED CHAIRMAN OF WG AND CHAIRMAN OF SC WITH ASSISTANCE OF SECRETARIAT CONSOLIDATE PROPOSALS WHICH WERE BASICALLY SIMILAR. ON SEPARATE MATTER, HE COMMENDED EFFORTS OF FIJI TO DRAFT OBJECTIVE TEST FOR INNOCENT PASSAGE.

11. SWEDISH REP SPOKE ON MEANS TO ACCOMMODATE LANDLOCKED STATES AND THOSE SIMILARLY SITUATED IF CONFERENCE ADOPTED ECONOMIC ZONE. SWEDEN SUPPORTED SIX-POWER PROPOSAL (A/AC.138.SC.II/L.39) AND FELT THAT LANDLOCKED STATES NEEDED PROTECTION FOR LIVING BUT NOT MINERAL RESOURCES IN ECONOMIC ZONE. REP STATED LINKAGE SHOULD EXIST BETWEEN EXTENSION OF COASTAL STATE JURISDICTION AND SHARING OF RESOURCES, I.E. BROADER THE ZONE, HIGHER THE PERCENT OF CONTRIBUTION. SWEDEN PREFERRED OAU DECLARATION FORMULA WHICH DID NOT DISCRIMINATE BETWEEN DEVELOPING AND DEVELOPED LANDLOCKED STATES FOR BENEFIT SHARING. REP SUPPORTED PROCEDURAL SUGGESTION MADE BY SINGAPORE TO REDUCE NUMBER DRAFT PROPOSALS AND FACILITATE SC'S WORK.

12. TURKISH REP SPOKE ON MARITIME DELIMITATION AND OBJECTIVE CRITERIA FOR SPECIAL CIRCUMSTANCES OF ISLANDS. HE SUGGESTED INTERNATIONAL HYDROGRAPHIC OFFICE STUDY PROBLEMS INVOLVED.

13. COLOMBIAN REP POINTED OUT GREAT MAJORITY OF PROPOSALS WERE CLOSE TO PATRIMONIAL SEA CONCEPT.
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THOSE STATES WITH ACQUIRED RIGHTS WERE NOT MERELY TO BE OFFERED MONETARY COMPENSATION FOR SUCH RIGHTS. IN COMMENTING ON VARIOUS DRAFTS, HE STATED US PROPOSAL (A/AC 138.SCII/L.35) WAS MAJOR CONSTRUCTIVE EFFORT THOUGH FISHERIES WAS CONSIDERED AS SEPARATE REGIME. US PROPOSAL DID NOT CREATE INSOLUBLE DIFFICULTIES FOR COLOMBIAN DELEGATION.

14. CANADIAN REP WAS ENCOURAGED SC WAS CONSIDERING SPECIFIC TEXTS. HE STATED PROPOSAL SUBMITTED BY AUSTRALIA AND NORWAY DID NOT REFLECT

CANADIAN POSITION ON CONTINENTAL SHELF. REP WAS VERY COMPLEMENTARY THAT FIJIAN PROPOSAL ALTHOUGH CANADA DID NOT AGREE WITH ALL OF IT. FOR EXAMPLE, CANADA WOULD HAVE PREFERRED GREATER RELECTION OF COASTAL STATES ENVIRONMENTAL RIGHTS. REP NOTED WITH FAVOR DESIGNATED SEALANES WHICH WERE OPEN TO PASSAGE EXCEPT IN CERTAIN DEFINED INSTANCES AND FIJIAN CLASSIFICATION OF TANKERS AS INHERENTLY DANGEROUS, THEREBY REQUIRING PRIOR NOTIFICATION OF COASTAL STATE. SHIFTING SUBJECT, REP NOTED CANADIAN APPROACH ON FISHERIES WHICH GAVE PREFERENTIAL RIGHTS TO COASTAL STATES MIGHT NOT BE APPROPRIATE FOR ALL REGIONS. CANADA BELIEVED IT HAD EXISTING RIGHTS TO CONTINENTAL MARGIN EVEN BEYOND 200 MILES BUT QUICKLY NOTED IT HAD MADE SPECIFIC OFFER REVENUE SHARING.

15. UK REP NOTED EXCLUSIVE ECONOMIC ZONES CONFLICTED WITH FREEDOM OF FISHING UNDER TRADITIONAL HIGH SEAS DOCTRINE. UK DID RECOGNIZE SPECIAL INTEREST OF COASTAL STATE RIGHTS AND INTERNATIONAL COMMUNITY RIGHTS RE FISHERIES. REP POINTED OUT FISHERY STOCKS WERE GENERALLY WELL MAINTAINED BY REGIONAL COMMISSIONS SUCH AS ICNAF WHICH HAD NOW EXTENDED ITS CONTROL OVER ALL MAJOR STOCKS IN AREA. UK BELIEVED REGIONAL COMMISSIONS SHOULD BE STRENGTHENED AND GIVEN BETTER MEANS OF ENFORCEMENT. UK PLACED HIGH PREMIUM ON MANAGEMENT AND CONSERVATION BECAUSE FISHERIES WERE RENEWABLE RESOURCE AND, TO VARYING DEGREES, MOBILE.

16. PERUVIAN REP IMPLIED COASTAL STATES SHOULD SECURE
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SOMETHING FROM LANDLOCKED AS WELL AS LANDLOCKED STATES OBTAINING SOMETHING FROM COASTAL STATES. REP ASKED SOV'S TO IDENTIFY STATES THREATENING RIGHT OF OF FREE TRANSIT THROUGH STRAITS AS WELL AS NUMBER OF COUNTRIES UTILIZING STRAITS FOR PASSAGE OF WARSHIPS AND SUBMARINES. USSR REP REPLIED PERUVIAN QUESTION WAS TOO GENERAL TO REPLY TO IN CONCRETE TERMS. THEREFORE, HE CITED HYPOTHETICAL EXAMPLE IN WHICH STATES SUPPORTING RACIST REGIMES IN AFRICA DID NOT NEED TO RELY UPON PASSAGE THROUGH STRAITS BUT IN WHICH STATES SUPPORTING WARS OF NATIONAL LIBERATION WERE DEPENDENT UPON PASSAGE THROUGH STRAITS. BASSIN

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